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## TOWN OF CARLISLE

### OFFICE OF Zoning Board of Appeals

66 Westford Street  
Carlisle, MA 01741  
978-369-5326

### Minutes: Board of Appeals, January 4, 2007

The meeting was called to order at 8:01 p.m. in the Town Hall, 66 Westford Street. Board Members Ed Rolfe (Chair), Cindy Nock (Clerk), Steve Hinton (associate member), Emmanuel Crespo (associate member), secretary Julie Levey, applicant and interested parties were present.

Rolfe introduced the board members and gave a brief overview of the procedure. Hinton sat as a full board member for this meeting. Rolfe made minor changes to the meeting agenda.

Rolfe entertained comments from the public on items not on the agenda; there were none. There was no unfinished business.

Rolfe opened the hearing for **Case 0701, the application of Kevin Stacey**, request for a special permit under zoning bylaws 3.2.2.9 for the operation of a landscaping business at 570 West Street.

The following correspondence was entered into the record:

Email dated December 7, 2006 from The Brophys in support of Stacey

Letter dated December 28, 2006 from the Brophys in support of Stacey and clarifying the easement

agreement

Right of Way registered with the Registry of Deeds

Letter dated December 30, 2006 from Eve & John Linn in support of Stacey

Letter dated January 4, 2007 from Anthony Bondi in support of Stacey

Petition in support of Stacey signed by immediate abutters (Lunig, Walton, Linn, Burke, Lehotsky)

Traffic study conducted by Carlisle Police Department, on December 14-15, 2006

4,052 Cars in Total heading South on West Street

Two pages of 5 photos taken at December site visit from driveway towards abutters and showing natural woodland landscape.

Applicant Kevin Stacey appeared before the board requesting that his special permit be reinstated. Stacey apologized for not applying for special permit renewal in a timely manner and promised that it would not happen again. Stacey said Saturday traffic on the easement was for personal use and not business related. Stacey reported that daily business traffic consists of two or four trips per day but that personal business requires approximately 10 trips per day. Stacey indicated on an enlarged photograph the location of 570 West Street, the easement and abutter property. It was noted that the only abutter who had issue with the business was Grant Challenger. In response to Rolfe, Stacey said return to the property during the day for business purposes were limited to picking up needed equipment or due to equipment failure.

Stacey has two employees currently but sometimes has a third employee for peak times. Stacey has no plans to grow the business. Equipment consists of two three-quarter ton pickup trucks and two one ton dump trucks that had an estimated gross vehicle weight of 12,000 pounds each, one 17 foot trailer, one 16 foot trailer and a skid steer. Stacey has no plans to acquire additional equipment.

Hours of operation are 7 a.m. to 6 p.m. Stacey said if they are unable to conduct business during the week due to weather and need to work on a weekend, they will leave equipment over the weekend at his parents or at the property where they will be working. The business is typically seasonal landscaping with current winter work consisting of snow plowing as needed.

In response to Rolfe, Stacey said maintenance of equipment is limited to grease and oil changes and occasionally washing of the trucks and is done in the open on the tarmac during daylight only. There is no storage of landscape material on the property, no signage for the business and customers do not come to the property for business needs. Stacey does not grow any plants on the property for resale purposes. There are currently motion detector lights on the house and there are no plans to increase lighting.

Abutter Grant Challenger reminded the attendees that the hearing was taking place because Stacey had filed the special permit application due to the fact that Stacey and Challenger could not resolve one-on-one the issue of the landscape business utilizing the easement located on Challenger's property and Stacey conducting business in a non-commercial residential zone.

Challenger clarified that he did not endorse the issuance of the special permit to Stacey in February 2005 but had accepted the judgment and decision of the Board of Appeals.

Challenger said he had nothing against Stacey personally nor his business. Challenger felt that the zoning bylaws do not allow commercial operation in the residential zone where his home is although he does understand that the town bylaws give latitude to the Board to allow them. Challenger said he was at the hearing to stand behind his words.

A number of town citizens spoke on behalf of Stacey; highlighting his role in town as a small business owner, a volunteer firefighter and a good citizen. They included: Linda Stacey, 328 Brook Street; Lloyd Burke, 500 West Street; Chris Fielding, 410 East Street; Jeff Springer, 33 Old North Road; James Davis, 94 West Street; Frank Sargent, 734 Lowell Road; Anthony Bondi, 570 West Street; John Bakewell, 290 Rutland Street; Andrea Lloyd 570 West Street; and Kevin Walker, 119 Stearns Street.

In response to Hinton, Stacey approximated loaning his equipment to friends about 10 times per year.

There being no further discussion the hearing closed at 8:59 p.m.

The Board opened deliberations for **Case 0701, the application of Kevin Stacey**, request for a special permit under zoning bylaws 3.2.2.9 for the operation of a landscaping business at 570 West Street.

In response to Challenger's concern regarding the allowance of a landscape business under bylaw 3.2.2.9, the Board felt that the bylaw did allow for this type of business in this residential area.

The Board reported that on a site walk there appeared to be a good separation from the homes to the easement roadway in question and that adequate screening was in place. The parking and storage of two trucks and trailers on the tarmac was adequate and well screened from the abutters. The driveway was well maintained. The Board also felt there was adequate sight distance for exiting onto West Street from the property.

Findings:

The board finds:

1. No external changes will be made to the premises.
2. No outside display of materials.
3. No sale of or display of goods on the premises. There is sufficient screening in place.

4. The property is adaptable to the proposed use. The driveway is separated and screened. The driveway was well maintained. Parking and storage of business equipment on the tarmac at the far end of the driveway was adequate and well screened by natural woodland landscape.
5. The proposed use is not contrary to the best interests of the town.
6. No nuisance or detrimental condition caused by the proposed use would exist on the lot line to the adjacent Linn or Challenger in amounts that would be seriously objectionable.
7. The operation is not injurious to the character or amenities of the neighborhood

Conditions:

1. No sale of goods including firewood on the premises.
2. No storage/stockpiling onsite of landscape material.
3. No delivery of landscaping material to the premises unless for use of owners of 570 West Street.
4. No business truck or trailer traffic on driveway on Saturday or Sunday.
5. The business may have no more than 3 employees in addition to the owner.
6. All business must be conducted off-premises unless hired by the owners of 570 West Street.
7. Current major equipment, or its equivalent replacement, must remain at 2 three-quarter ton pickup trucks and two one-ton dump trucks of approximately 12000 lbs. gross weight, 2 trailers of 17 feet or less and one skid steer.
8. All equipment must be maintained and inspected in conjunction with state and federal laws.
9. No external changes may be made to the property to include no additional external lighting beyond residential fixtures on house.
10. No plants may be grown on site for transplant or resale.
11. No signage displayed on premises.
12. The permit is granted for a one year time period to expire on February 1, 2008.
13. This special permit is granted to Kevin Stacey only and cannot be transferred to any other person(s) through lease, sale or assign.
14. The hours of operation will be 7am – 6pm Monday through Friday with no hours of operation on Saturday and Sunday.
15. The applicant must comply with all other federal, town and state bylaws and regulations.

Nock moved to grant to Kevin Stacey a special permit under zoning bylaws 3.2.2.9 for the operation of a landscaping business at 570 West Street with the above listed conditions. Hinton seconded the motion. The board voted to grant the special permit request (4-0). (Rolfe – aye, Nock – aye, Crespo – aye, Hinton - aye).

Rolfe informed the hearing of the appeals process.

Challenger applauded the Board's volunteerism and careful consideration of the case before them. Board member Steve Hinton thanked Mr. Challenger for participating in and understanding the process.

The Board voted unanimously to approve the December 7 and 18, 2006 minutes (4-0).

The meeting adjourned at 9:50 p.m.

Respectfully submitted,

Julie Connor Levey, Secretary